UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

ART INSTITUTE OF CALIFORNIA - SILICON VALLEY

and

Case 32-CA-096135

RUFUS DAVIS

ORDER

The Employer's petition to revoke subpoena ad testificandum A-959494 and subpoena duces tecum B-712240 is denied. The subpoenas seek information relevant to the matter under investigation and describe with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Employer has failed to establish any other legal basis for revoking the subpoenas.¹ See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).²

Dated, Washington, D.C., May 14, 2013.

MARK GASTON PEARCE. CHAIRMAN

RICHARD F. GRIFFIN, JR., MEMBER

SHARON BLOCK, MEMBER

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¹ The Employer argues that the Board lacks a quorum, and that the Regional Director's delegated power to act ceases when the Board's membership falls below the Board quorum. Accordingly, the Employer argues, the Regional Director had no authority to issue the subpoenas; Chairman Pearce had no authority to sign the subpoenas; neither the Regional Director nor the Board has the authority to seek enforcement of the subpoenas in court; the Regional Director and the Board lack the ability to issue a complaint if merit is found in the charge; and the Acting General Counsel cannot litigate the allegations. For the reasons stated in *Bloomingdale's*, *Inc.*, 359 NLRB No. 113 (2013), these arguments are rejected.

² In evaluating the petition to revoke the subpoena, we view the temporal limitation set forth in subpoena par. 5 as also applying to the request in subpoena par. 4.